

According to the Office Action, HTTP server 63 of DuFresne (see Fig. 6) is a “processor,” but the rejection does not rely on the DuFresne disclosure to teach an interpreter with the claim feature quoted above. Instead, the rejection relies on Spence et al. to suggest modifying DuFresne’s HTTP server 63 to have such interpreter.

Under MPEP § 2142, the PTO has the burden to explain why Spence et al. would have motivated the modification of DuFresne’s HTTP server 63 to have such interpreter so that it would have an interpreter with the claim feature quoted above. To meet this requirement, the Office Action indicates (page 4, bottom two paragraphs) that “the invention is designed to be universal” and that there would have been a “benefit.” Applicant respectfully responds that these arguments are insufficient to support the obviousness rejection.

Applicant of course does not deny that there are benefits associated with his invention. However, to justify an obviousness rejection, an Office Action must show more than that benefits exist. The Office Action must explain why someone skilled in the art would have thought of such a modification beforehand instead of merely appreciating, after learning of the modification, that there would have been benefits. The DuFresne processor presumably operates adequately,¹ so one of ordinary skill in the art would not have been motivated to modify it just because another processor exists that operates differently. An obviousness rejection cannot be based on the mere possibility that the prior art may be modified² or on the appreciation of a benefit resulting *after* one becomes informed of the modification.

¹ Under 35 U.S.C. § 282, a patent is presumed to be valid. Although the presumption may sometimes be rebutted, the Office Action provides no argument that the DuFresne processor does not operate sufficiently.

² “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.” MPEP § 2143.01. Although the Office Action provides a discussion of features disclosed by Spence et al., the Office Action provides no citation of any discussion in Spence et al. that those features would be desirable in a processor that is analogous to that of DuFresne.

Therefore, applicant respectfully submits that the PTO has not sufficiently justified the obviousness rejection, so the rejection should be withdrawn for at least this reason alone.

Nonetheless, applicant provides an additional reason to withdraw the rejection:

In addition to the requirement under MPEP § 2142 discussed above, MPEP § 2142 also requires that the PTO explain how the modified prior art would have had each feature recited in the rejected claims. Accordingly, to justify the present obviousness rejection, the Office Action would have needed to explain how the modified prior art would at least have had “CGI scripts,” “display control files,” and a “processing program” as described in the claims. In this regard, the recent Office Action states on page 4, lines 9-11, the following:

Finally, Spence also teaches that *the display control file, the CGI scripts, and the processing program are configured separately* (see Fig. 1). It is clear from Fig. 1 that each of these components is separate from the others ... [emphasis in original].

However, Fig. 1 of Spence et al. shows many elements, and the Office Action does not indicate which element is the “display control file,” which elements are the “CGI scripts,” and which element is the “processing program.” Applicant sees no interpretation of Fig. 1 that would support the conclusion that the display control file, the CGI scripts, and the processing program are configured separately as claimed. Although PTO might think that a file, some scripts, and a program are represented in Fig. 1, an explicit indication of the prior art elements relied upon is necessary to determine whether those elements are indeed configured separately as claimed. Because these three elements are not even identified, the Office Action does not support the obviousness rejection for at least a second reason. (It is further not clear if, had these three elements been identified, they would really be configured separately as claimed.)

In view of the remarks provided herein, applicant now requests the withdrawal of the rejection of claims 5-8. Further, applicant submits that the entire application is in condition for allowance, so a Notice of Allowability is hereby solicited. If the Examiner believes that issues remain unresolved, he is welcome to contact the undersigned.

If necessary, the undersigned authorizes deducting any fees that may be due from Deposit Account No. 50-2866.

Respectfully submitted,

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